

Appl. No. 10/004,742
Amtdt. Dated 21 March 2005
Reply to Advisory Action of 4 March 2005

REMARKS

As discussed with the Examiner by telephonic conference on March 9, 2005, Applicant respectfully requests reconsideration of the findings of anticipation in light of U.S. Patent 5,250,313 issued to Giguere with regards to Claim 1 as amended herein, and Claims 2 -13 dependent therefrom. A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. MPEP § 2131. A rejection based on 35 U.S.C. 102(b) can be overcome by persuasively arguing that the claims are patentably distinguishable from the prior art. MPEP § 706.02(b).

Applicant has amended Claim 1 in conformance with the telephonic conference with the Examiner and respectfully offers that the prior art does not teach all of such elements. The methodological differences in the inventions of the cited patent and Claim 1 of the instant application result in different operation and output. In the March 4, 2005 Advisory Action, the Examiner held:

the pre-breaking step of Giguere would result in rubbing of surfaces of the kernel and inherently produce some polishing and at remove [sic] at least some small portion of bran from the kernels as a result of such rubbing action.

Office Action, page 2. Claim 1 (currently amended) of the instant application now provides:

A process for de-germinating corn kernels, said corn kernels having bran, endosperm and germ, comprising, in the sequence indicated:
a first tempering step;
a polishing step for removing said bran from said corn kernels by effectively rubbing said bran to shear said bran from said endosperm;
a second tempering step; and
a friction step.

As discussed with the Examiner, Giguere uses an impact step to crush the kernel, thereby breaking the kernel into several pieces. The direction of force of the impact step is nearly normal

Appl. No. 10/004,742
Amdt. Dated 21 March 2005
Reply to Advisory Action of 4 March 2005

to the surface of the bran where contact occurs and results in the impacting of the bran at the location of impact into the endosperm. The instant invention uses no such impact step. Rather the instant invention uses a polishing step wherein the bran is sheared from the surface of the endosperm by rubbing forces nearly tangential to the surface of the bran. As an additional result, the polishing step does not result in the normal impact to the endosperm or the resulting breaking of the corn kernel into several pieces.

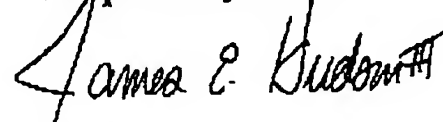
Lacking the breaking of the endosperm into numerous pieces at the time of bran removal and instead providing for removal of bran by shearing forces rather than impact forces, the instant application should be allowed in its entirety.

III. Conclusion

Claim 1 as amended of the instant application should be allowed. The polishing step for bran removal of Claim 1 as amended is not found in Giguere's '313 patent.

In light of such differences, Claim 1 as amended of the instant application is not anticipated by Giguere's '313 patent. Applicant therefore respectfully requests that a Notice of Allowance be issued in this case.

Respectfully submitted,



James E. Hudson III
Registration No. 41,081

Keeling Hudson LLC
Post Office Box 70103
Houston, Texas 77270
(713) 680-1447
(713) 680-8567 Fax